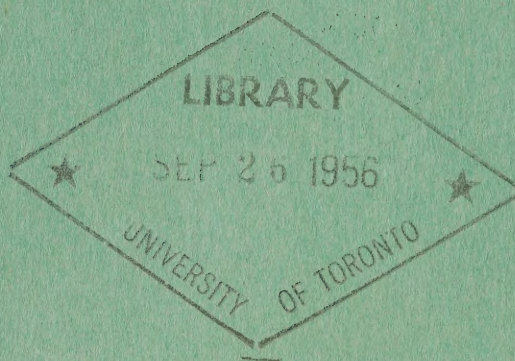


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Taxation Division

NON-RESIDENT TAX INFORMATION BULLETIN

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TAXATION DIVISION

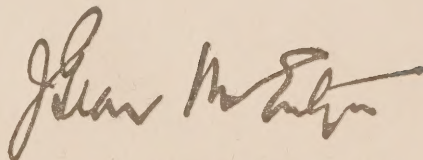
Oct 3 1956

INFORMATION BULLETIN No. 2 (REVISED)

NON-RESIDENT TAX
INFORMATION
BULLETIN


Issued by

DEPARTMENT OF NATIONAL REVENUE
TAXATION DIVISION

A handwritten signature in dark ink, appearing to read "John M. Egan", is positioned above the title of the Deputy Minister.

Deputy Minister (Taxation Division):

May, 1956.



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NON-RESIDENT TAX INFORMATION BULLETIN

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NON-RESIDENT TAX INFORMATION BULLETIN

Introduction

This Bulletin sets out briefly the requirements of the Income Tax Act as it affects persons who in their day-to-day operations pay or credit amounts to non-residents of Canada. It supersedes "Public Circular No. 2" dated 23rd June, 1950.

A non-resident tax of 15% (sometimes less) becomes payable whenever a resident of Canada pays or credits to a non-resident of Canada any of the following kinds of income:

Dividends, interest, estate or trust income, rents, royalties, timber royalties, alimony, patronage payments, payments for the right to use motion picture films.

The tax is imposed upon the non-resident but the resident of Canada who makes the payment to the non-resident is required to withhold the tax and remit it to the local District Taxation Office. Where a Canadian agent for a non-resident receives a payment on behalf of the non-resident from which tax has not been deducted, the Canadian agent must withhold and remit the proper tax.

This Bulletin is written for the general use and guidance of persons making or receiving such payments. Information on points not dealt with herein may be obtained from the District Taxation Office. For the precise terms of the applicable law, reference may be made to Part III of the Income Tax Act, Part II of the Income Tax Regulations and to the Tax Conventions negotiated by Canada with certain foreign countries.

Instructions herein do not apply to payments made to non-resident insurance companies registered to do business in Canada. The tax on such payments is dealt with in Information Bulletin No. 6.

REMITTING OF TAX WITHHELD

General

Non-resident tax withheld at any time during the month is payable to the local District Taxation Office by the 15th of the following month. The tax is payable either in the currency in which payment is made to the non-resident or in the equivalent of Canadian funds at the rate of exchange prevailing on the day the payment is made.

An initial remittance of non-resident tax should be accompanied by a covering letter indicating clearly (a) the name of the remitter, (b) that the payment covers non-resident tax and, (c) the type of income payment from which the tax was withheld (e.g. mortgage interest, estate income, alimony, etc.). The remitter will receive a receipt and statement of account, form NR7, the top half of which is detachable and is provided for use in making subsequent remittances. The top half of form NR7 should always be used in making subsequent remittances as this will ensure that credit is made to the proper account.

Persons withholding non-resident tax will make one bulk monthly remittance on form NR7 covering the total of taxes withheld during the month from the various types of payments subject to non-resident tax.

Dividend Warrants and Interest Coupons

Where dividends are paid by means of "dividend warrants" payable to bearer, and where interest payable in Canadian funds is paid by means of coupons payable to bearer, the person cashing the warrants or coupons will withhold the applicable tax after obtaining a form NR601 completed by the payee or his collection agent. This form is an Ownership Certificate giving details of the transaction.

The encashing agent will forward forms NR601 concurrently with the tax withheld and a remittance form NR7 to the local District Taxation Office.

Estates or Trusts

Trust companies may not find it convenient to remit in bulk on one remittance form the amount of tax deducted on behalf of all accounts. These companies may request permis-

sion from the local District Taxation Office to remit in the name of the remitter company identified by the individual estate, trust or payor company on whose behalf they are acting, or in the name of the remitter company identified by the department of the trust company remitting tax.

Non-resident tax deducted from estates or trusts whose fiscal periods do not end in or coincide with the current year must be reported on a separate form NR7 identified as to the calendar year in which the fiscal period ends.

Property Rentals—Timber Royalties

When a non-resident has filed a form NR6 (formerly T700A), thereby electing to file a return and pay non-resident tax on the basis of amounts available from property rentals or timber royalties, the agent must complete the details on the reverse of the NR7 return when remitting the tax withheld.

ANNUAL REPORTING OF AMOUNTS PAID AND TAX WITHHELD

Persons who have received payments which are subject to non-resident tax are required to report the details of such payments and the amount of tax withheld to the local District Taxation Office before the last day of February each year on an NR4 return (Summary and Supplementary). This form is a return of the amounts paid or credited to and the tax withheld from non-residents living outside of Canada during the previous calendar year. Persons withholding non-resident taxes must also deliver by the last day of February of the following year, two properly completed copies of form NR4 Supplementary to each non-resident on whose behalf the tax was deducted.

It is important, therefore, that a complete record of these payments and withholdings be maintained so that forms NR4 will tally with remittances made during the year.

Persons cashing dividend warrants and interest coupons will report such encashments on forms NR4 Summary only, as forms NR4 Supplementary are not required when forms NR601 have been filed.

RATES OF NON-RESIDENT TAX

Dividends

The tax to be withheld from such payments is 15% of the gross dividend. Subject to certain provisos the rate is reduced to 5% if the dividend is payable to a non-resident parent corporation which holds all the voting stock of the Canadian subsidiary.

Interest

The tax to be withheld from interest payments to non-residents is 15% of the gross interest paid or credited. Interest subject to tax includes bond, bank and other depository interest, and interest on mortgages or promissory notes. However,

- (a) where the interest is on bonds of, or guaranteed by the Government of Canada, there is no tax;
- (b) where the interest is expressly payable in a foreign currency, except payments to persons not dealing at arms length with the debtor, there is no tax;
- (c) where the interest is payable by a "Non-Resident-Owned Investment Corporation", under certain conditions, there is no tax;
- (d) where the interest is on bonds of, or guaranteed by, a province, the rate of tax is 5%.

Estate or Trust Income

A person resident in Canada must withhold a tax of 15% from every amount paid or credited to a non-resident beneficiary as income from a Canadian estate or trust. Where all the beneficiaries of a trust established prior to 1949 reside in a foreign country and all the income of the trust is received from that country, there is no tax on the amounts paid or credited to the beneficiaries.

No tax need be withheld from amounts paid or credited to non-resident beneficiaries if such amounts can reasonably be regarded as derived from:

- (a) dividends or interest received by the trustee from a Non-Resident-Owned Investment Corporation;

- (b) income received in respect of copyright in a book, music, an article in a periodical, a newspaper syndicated article, picture, comics or other newspaper or periodical feature used or to be used in Canada;

when such income would have been non-taxable if it had been received directly by the non-resident instead of the trustee.

Motion Picture Films

A tax of 10% must be withheld from amounts paid or credited to a non-resident for the right in or to the use of motion picture films, including films for use in connection with television, that have been or are to be used or reproduced in Canada.

Alimony

A tax of 15% must be withheld from alimony paid to a non-resident by a person resident in Canada. Payments for the support of a spouse or former spouse, children of the marriage or both the spouse and children are subject to the 15% tax.

Rents, Royalties and Similar Payments

A tax of 15% must be withheld from amounts paid or credited to non-residents for rent, royalty (including a timber limit royalty) or a similar payment, such as a payment made,

- (a) for the use in Canada of property;
- (b) for the use of an invention in Canada;
- (c) for any property, trade name, design or other thing used or sold in Canada,

but not including a royalty or similar payment on or in respect of a copyright. A tax will not be withheld from a payment in respect of the use by a railway company of railway rolling stock as defined by the Railway Act.

Exception in the Case of Real Estate Rentals and Timber Royalties

The general rule referred to above requires that a 15% tax must be withheld from the gross amount of rentals and timber limit royalties paid or credited to non-residents, with no deduction from the gross rentals being allowed on account of any expenses which might have been incurred to earn this income.

However, where the rent or royalty is derived from real property situated in Canada, the non-resident is given an option to elect to file a Canadian income tax return and to compute his tax liability on the gross rentals, less expenses. The tax may then be paid on a net income basis in respect of such income for that year as though the non-resident were a person residing in Canada and his interest in the real property or in timber limits in Canada were his only source of income. No deductions for personal exemptions are allowed in determining taxable income.

When the non-resident undertakes on form NR6 (formerly T700A) to file a Canadian income tax return, he can arrange with his Canadian agent or tenant to have the 15% non-resident tax deducted from the amounts available for remittance to the non-resident instead of from the gross rents.

If an undertaking is filed by the non-resident and he subsequently fails to file a tax return when due or fails to pay Canadian tax due on the rental or timber royalty, the Canadian agent or tenant who is also a party to the undertaking must pay the difference between the 15% tax on the gross rental or timber royalty and the taxes previously remitted on the rental or timber royalty.

RECIPROCAL TAX CONVENTIONS

At the present time, Canada has concluded tax conventions or agreements with the United States, United Kingdom, New Zealand, France, Sweden, Ireland and Denmark.

Under the provisions of the Canada-United Kingdom Tax Agreement no tax is payable on dividends paid by a wholly-owned subsidiary to a United Kingdom parent corporation.

Under the provisions of the Canada-United States Tax Convention, religious, scientific, literary, educational or charitable organizations of the United States are exempt from Canadian income tax if they are exempt from United States income tax and if they would be exempt from Canadian income tax had they been Canadian institutions.

The procedure for claiming exemption is for such United States organizations to supply the necessary information to the Department so that it may be determined whether or not they qualify for exemption. This information should be sent to the Department of National Revenue (Taxation), 444 Sussex Street, Ottawa, Ontario (Attention: Operations Section).

A booklet containing the names of such United States organizations which have been declared exempt from Canadian tax has been printed and is available on request.

REFUNDS

To obtain a refund of non-resident tax deducted from:

Property Rentals or Timber Royalties, a non-resident must complete and file an Income Tax return on form T1 General, in the case of an individual or form T2 in the case of a corporation.

Investment, Estate or Trust Income, a non-resident must file a form NR7-R (Application for Refund of Non-Resident Tax) duly completed by the applicant and certified by the Canadian debtor.

Applications for the refund of non-resident tax to a RESIDENT of Canada can only be made upon the filing with the local District Taxation Office of a T1 or T2 return for the year, accompanied by a properly completed form NR7-R.

The form NR7-R will give details of the tax deducted. The Canadian debtor or disbursing agent will certify on the form that the tax was remitted to the District Taxation Office. If a claim is in order, the amount will be allowed as a credit against any tax that may be owing by the taxpayer and the balance will be refunded.

PENALTIES

A person who fails to deduct non-resident tax that should have been deducted is liable for the amount that should have been deducted together with interest thereon at the rate of 10% per annum.

The penalty for remitting late or for failure to remit is 10% of the amount deducted (minimum \$10) and interest at 10% per annum on the amount deducted.

The penalty for late filing of NR4 returns with the District Taxation Office or for late distribution of NR4 slips to non-residents is \$10 for each day of default to a maximum of \$2,500.

SALARY OR WAGES PAID TO NON-RESIDENTS

Remuneration is not subject to non-resident tax levied under Part III of the Income Tax Act but non-residents of Canada who are engaged in regular and continuous employment in Canada are subject to tax deduction on the same basis as residents. Payments for services rendered in Canada by a non-resident, other than in the course of regular and continuous employment, are subject to a tax deduction of 15%.

However, a resident of the United States of America employed in Canada, (1) for a period or periods not exceeding 183 days in the calendar year and (2) whose compensation received from Canadian residents for services performed in Canada will not exceed \$5,000 is exempt from tax deductions if he completes the certificate at the bottom of the form TD1 and files the form with his Canadian employer.

The procedure for remitting and reporting taxes withheld from remuneration paid or credited to non-residents will be the same one that is used when remitting and reporting taxes withheld from similar payments made to Canadian residents.

In addition to the filing of an annual T4 return (Summary and Supplementary) in respect of remunerations paid to and taxes withheld from non-residents, persons who have withheld such taxes are required to file a yearly NR4 return (Summary only) on which remuneration paid to persons living outside of Canada will be reported.

Refunds

To obtain a refund of tax deducted from remuneration a Canadian income tax return must be completed and filed with the District Taxation Office.

EDMOND CLOUTIER, C.M.G., O.A., D.S.P.,
QUEEN'S PRINTER AND CONTROLLER OF STATIONERY
OTTAWA, 1956.